



House of Representatives

File No. 759

General Assembly

January Session, 2017

(Reprint of File No. 692)

Substitute House Bill No. 7299
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 12, 2017

AN ACT CONCERNING STRENGTHENING LAWS CONCERNING DOMESTIC VIOLENCE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 53a-181d of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective October 1, 2017*):

3 (a) For the purposes of this section, "course of conduct" means two
4 or more acts, including, but not limited to, acts in which a person
5 directly, indirectly or through a third party, by any action, method,
6 device or means, including, but not limited to, electronic or social
7 media, (1) follows, lies in wait for, monitors, observes, surveils,
8 threatens, harasses, communicates with or sends unwanted gifts to, a
9 person, or (2) interferes with a person's property, and "emotional
10 distress" means significant mental or psychological suffering or
11 distress that may or may not require medical or other professional
12 treatment or counseling.

13 (b) A person is guilty of stalking in the second degree when:

14 (1) Such person knowingly engages in a course of conduct directed
15 at a specific person that would cause a reasonable person to (A) fear
16 for such person's physical safety or the physical safety of a third
17 person, or (B) suffer emotional distress; or

18 (2) Such person intentionally, and for no legitimate purpose,
19 engages in a course of conduct directed at a specific person that would
20 cause a reasonable person to fear that such person's employment,
21 business or career is threatened, where (A) such conduct consists of the
22 actor telephoning to, appearing at or initiating communication or
23 contact at such other person's place of employment or business,
24 provided the actor was previously and clearly informed to cease such
25 conduct, and (B) such conduct does not consist of constitutionally
26 protected activity.

27 (c) Stalking in the second degree is a class A misdemeanor.

28 Sec. 2. Section 53a-181e of the general statutes is repealed and the
29 following is substituted in lieu thereof (*Effective October 1, 2017*):

30 (a) A person is guilty of stalking in the third degree when [he] such
31 person recklessly causes another person to reasonably (1) fear for his
32 or her physical safety, or (2) suffer emotional distress, as defined in
33 section 53a-181d, as amended by this act, by wilfully and repeatedly
34 following or lying in wait for such other person.

35 (b) Stalking in the third degree is a class B misdemeanor.

36 Sec. 3. Section 53a-64aa of the general statutes is repealed and the
37 following is substituted in lieu thereof (*Effective October 1, 2017*):

38 (a) A person is guilty of strangulation or suffocation in the first
39 degree when such person commits strangulation or suffocation in the
40 second degree as provided in section 53a-64bb, as amended by this act,
41 and (1) in the commission of such offense, such person (A) uses or
42 attempts to use a dangerous instrument, or (B) causes serious physical
43 injury to such other person, or (2) such person has previously been

44 convicted of a violation of this section or section 53a-64bb, as amended
45 by this act.

46 (b) No person shall be found guilty of strangulation or suffocation
47 in the first degree and unlawful restraint or assault upon the same
48 incident, but such person may be charged and prosecuted for all three
49 offenses upon the same information. For the purposes of this section,
50 "unlawful restraint" means a violation of section 53a-95 or 53a-96, and
51 "assault" means a violation of section 53a-59, 53a-59a, 53a-59b, 53a-59c,
52 53a-60, 53a-60a, 53a-60b, 53a-60c, 53a-61 or 53a-61a.

53 (c) Strangulation or suffocation in the first degree is a class C felony.

54 Sec. 4. Section 53a-64bb of the general statutes is repealed and the
55 following is substituted in lieu thereof (*Effective October 1, 2017*):

56 (a) A person is guilty of strangulation or suffocation in the second
57 degree when such person restrains another person by the neck or
58 throat or obstructs such other person's nose or mouth with the intent to
59 impede the ability of such other person to breathe or restrict blood
60 circulation of such other person and such person impedes the ability of
61 such other person to breathe or restricts blood circulation of such other
62 person.

63 (b) No person shall be found guilty of strangulation or suffocation
64 in the second degree and unlawful restraint or assault upon the same
65 incident, but such person may be charged and prosecuted for all three
66 offenses upon the same information. For the purposes of this section,
67 "unlawful restraint" means a violation of section 53a-95 or 53a-96, and
68 "assault" means a violation of section 53a-59, 53a-59a, 53a-59b, 53a-59c,
69 53a-60, 53a-60a, 53a-60b, 53a-60c, 53a-61 or 53a-61a.

70 (c) Strangulation or suffocation in the second degree is a class D
71 felony.

72 Sec. 5. Section 53a-64cc of the general statutes is repealed and the
73 following is substituted in lieu thereof (*Effective October 1, 2017*):

74 (a) A person is guilty of strangulation or suffocation in the third
75 degree when such person recklessly restrains another person by the
76 neck or throat or obstructs such other person's nose or mouth and
77 impedes the ability of such other person to breathe or restricts blood
78 circulation of such other person.

79 (b) No person shall be found guilty of strangulation or suffocation
80 in the third degree and unlawful restraint or assault upon the same
81 incident, but such person may be charged and prosecuted for all three
82 offenses upon the same information. For the purposes of this section,
83 "unlawful restraint" means a violation of section 53a-95 or 53a-96, and
84 "assault" means a violation of section 53a-59, 53a-59a, 53a-59b, 53a-59c,
85 53a-60, 53a-60a, 53a-60b, 53a-60c, 53a-61 or 53a-61a.

86 (c) Strangulation or suffocation in the third degree is a class A
87 misdemeanor.

88 Sec. 6. Section 53a-222 of the general statutes is repealed and the
89 following is substituted in lieu thereof (*Effective October 1, 2017*):

90 (a) A person is guilty of violation of conditions of release in the first
91 degree when, while charged with the commission of a felony, such
92 person is released pursuant to subsection (b) of section 54-63c,
93 subsection (c) of section 54-63d or subsection (c) of section 54-64a, and
94 intentionally violates one or more of the imposed conditions of release.

95 (b) Violation of conditions of release in the first degree is a class D
96 felony, except that any violation of conditions of release that involve
97 (1) imposing any restraint upon the person or liberty of a person in
98 violation of the conditions of release, or (2) threatening, harassing,
99 assaulting, molesting, sexually assaulting or attacking a person in
100 violation of the conditions of release is a class C felony.

101 Sec. 7. Section 53a-222a of the general statutes is repealed and the
102 following is substituted in lieu thereof (*Effective October 1, 2017*):

103 (a) A person is guilty of violation of conditions of release in the

104 second degree when, while charged with the commission of a
105 misdemeanor or motor vehicle violation for which a sentence to a term
106 of imprisonment may be imposed, such person is released pursuant to
107 subsection (b) of section 54-63c, subsection (c) of section 54-63d or
108 subsection (c) of section 54-64a and intentionally violates one or more
109 of the imposed conditions of release.

110 (b) Violation of conditions of release in the second degree is a class
111 A misdemeanor, except that any violation of conditions of release that
112 involve (1) imposing any restraint upon the person or liberty of a
113 person in violation of the conditions of release, or (2) threatening,
114 harassing, assaulting, molesting, sexually assaulting or attacking a
115 person in violation of the conditions of release is a class D felony.

116 Sec. 8. Section 54-91a of the general statutes is repealed and the
117 following is substituted in lieu thereof (*Effective October 1, 2017*):

118 (a) No defendant convicted of a crime, other than a capital felony
119 under the provisions of section 53a-54b in effect prior to April 25, 2012,
120 or murder with special circumstances under the provisions of section
121 53a-54b in effect on or after April 25, 2012, the punishment for which
122 may include imprisonment for more than one year, may be sentenced,
123 or the defendant's case otherwise disposed of, until a written report of
124 investigation by a probation officer has been presented to and
125 considered by the court, if the defendant is so convicted for the first
126 time in this state or upon any conviction of a felony involving family
127 violence pursuant to section 46b-38a for which the punishment may
128 include imprisonment; but any court may, in its discretion, order a
129 presentence investigation for a defendant convicted of any crime or
130 offense other than a capital felony under the provisions of section 53a-
131 54b in effect prior to April 25, 2012, or murder with special
132 circumstances under the provisions of section 53a-54b in effect on or
133 after April 25, 2012.

134 (b) A defendant who is convicted of a crime and is not eligible for
135 sentence review pursuant to section 51-195 may, with the consent of

136 the sentencing judge and the prosecuting official, waive the
 137 presentence investigation, except that the presentence investigation
 138 may not be waived when the defendant is convicted of a felony
 139 involving family violence pursuant to section 46b-38a and the
 140 punishment for which may include imprisonment.

141 (c) Whenever an investigation is required, the probation officer shall
 142 promptly inquire into the circumstances of the offense, the attitude of
 143 the complainant or victim, or of the immediate family where possible
 144 in cases of homicide, and the criminal record, social history and
 145 present condition of the defendant. Such investigation shall include an
 146 inquiry into any damages suffered by the victim, including medical
 147 expenses, loss of earnings and property loss. All local and state police
 148 agencies shall furnish to the probation officer such criminal records as
 149 the probation officer may request. When in the opinion of the court or
 150 the investigating authority it is desirable, such investigation shall
 151 include a physical and mental examination of the defendant. If the
 152 defendant is committed to any institution, the investigating agency
 153 shall send the reports of such investigation to the institution at the time
 154 of commitment.

155 (d) Any information contained in the files or report of an
 156 investigation pursuant to this section shall be available to the Court
 157 Support Services Division for the purpose of performing the duties
 158 contained in section 54-63d and to the Department of Mental Health
 159 and Addiction Services for purposes of diagnosis and treatment.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2017	53a-181d
Sec. 2	October 1, 2017	53a-181e
Sec. 3	October 1, 2017	53a-64aa
Sec. 4	October 1, 2017	53a-64bb
Sec. 5	October 1, 2017	53a-64cc
Sec. 6	October 1, 2017	53a-222
Sec. 7	October 1, 2017	53a-222a

Sec. 8	<i>October 1, 2017</i>	54-91a
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The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 18 \$	FY 19 \$
Correction, Dept.; Judicial Dept. (Probation)	GF - Potential Cost	See Below	See Below
Resources of the General Fund	GF - Potential Revenue Gain	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill expands the offenses of stalking and strangulation and increases the penalty for violations of release for certain offenses and results in a potential cost for increased offenses and results in a potential revenue gain from fines. To the extent that future offenders receive higher fines and longer prison sentences under this bill, potential costs for incarceration or probation supervision in the community, or general fund revenue would result. On average, it costs the state \$7,260 (including benefits) to supervise an inmate in the community as opposed to \$61,320 (including benefits) to incarcerate an offender.

In addition, the bill requires a presentence investigator report for anyone convicted of a family violence crime for which a prison sentence may be imposed. There is no fiscal impact as these reports are already completed for these crimes.

House "A" made a clarifying change and does not result in a fiscal impact.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of violations.

OLR Bill Analysis**sHB 7299 (as amended by House "A")******AN ACT CONCERNING STRENGTHENING LAWS CONCERNING DOMESTIC VIOLENCE.*****SUMMARY**

This bill makes various changes in laws concerning crimes against an individual.

The bill:

1. expands the conduct that constitutes stalking to include conduct that causes a reasonable person to suffer "emotional distress;"
2. specifies that electronic or social media are among the methods, devices, or means by which conduct that constitutes 1st or 2nd degree stalking may occur;
3. broadens the strangulation statutes to include suffocation when a person obstructs another person's nose or mouth;
4. increases the penalty for violations of release conditions when the violation involves certain conduct; and
5. requires a presentence investigation for anyone convicted of a family violence felony for which a prison sentence may be imposed and prohibits such a defendant from waiving the investigation.

The bill also makes conforming and technical changes.

*House Amendment "A" further expands the conduct that constitutes stalking to include conduct that causes a reasonable person

to suffer emotional distress as opposed to suffering substantial emotional distress as under the underlying bill.

EFFECTIVE DATE: October 1, 2017

STALKING

3rd Degree Stalking (§ 2)

Under existing law, a person is guilty of 3rd degree stalking, a class B misdemeanor, when he or she recklessly causes another person to reasonably fear for his or her physical safety by wilfully and repeatedly following or lying in wait for the other person. The bill expands the conduct that constitutes 3rd degree stalking to include any such conduct that would cause another person to reasonably suffer emotional distress.

Under the bill, “emotional distress” means significant mental or psychological suffering or distress that may or may not require medical or other professional treatment or counseling.

By law, a class B misdemeanor is punishable by up to six months in prison, a fine of up to \$1,000, or both.

2nd Degree Stalking (§ 1)

The bill expands the conduct that constitutes 2nd degree stalking to include knowingly engaging in a course of conduct directed at a specific person that would cause a reasonable person to suffer emotional distress.

Under existing law, a person commits 2nd degree stalking, a class A misdemeanor, by (1) knowingly engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his, her, or a third person's physical safety or (2) intentionally, and for no legitimate purpose, engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear that his or her employment, business, or career is threatened. In the latter case, the actor must (1) telephone, appear at, or initiate communication with the victim at the victim's workplace or business

and (2) have previously and clearly been told to stop. This excludes situations under which the actor's conduct is protected by the U.S. or Connecticut constitutions.

By law, a class A misdemeanor is punishable by up to one year in prison, a fine of up to \$2,000, or both.

1st Degree Stalking

Because conduct covered by 2nd degree stalking is included in conduct that constitutes 1st degree stalking, the bill's changes also broaden the 1st degree crime. By law, a person is guilty of 1st degree stalking, a class D felony, when, among other things, after a conviction for 1st or 2nd degree stalking he or she commits 2nd degree stalking (CGS § 53a-181c).

By law, a class D felony is punishable by up to five years in prison, a fine of up to \$5,000, or both.

STRANGULATION OR SUFFOCATION

3rd Degree Strangulation or Suffocation (§ 5)

Under existing law, a person commits 3rd degree strangulation, a class A misdemeanor, if he or she recklessly restrains another person by the throat or neck and impedes the other person's breathing or blood circulation. The bill adds suffocation to this crime and expands the conduct that constitutes the crime to include impeding another person's breathing or blood circulation by recklessly obstructing the other person's nose or mouth.

2nd Degree Strangulation or Suffocation (§ 4)

Existing law makes a person guilty of 2nd degree strangulation, a class D felony, when he or she intentionally and actually impedes another person's breathing or blood circulation by restraining the person by the throat or neck. The bill adds suffocation to this crime and expands the conduct that constitutes the crime to include intentionally and actually impeding another person's breathing or blood circulation by obstructing the other person's nose or mouth.

1st Degree Strangulation or Suffocation (§ 3)

The bill adds suffocation to the 1st degree strangulation crime. Because conduct covered by 2nd degree strangulation is included in conduct that constitutes 1st degree strangulation, the bill's changes also broaden the 1st degree crime.

Under existing law, a person commits 1st degree strangulation, a class C felony, if he or she commits 2nd degree strangulation and (1) has previously been convicted of 1st or 2nd degree strangulation or (2) either causes serious physical injury or uses or attempts to use a dangerous instrument in committing the crime.

By law, a class C felony is punishable by one to 10 years in prison, a fine of up to \$10,000, or both.

Unlawful Restraint and Assault

Under the bill, as is the case under existing law for strangulation, no one may be found guilty of suffocation and 1st or 2nd degree unlawful restraint or assault for the same incident; however, the person may be charged with all three crimes in the same information (charging document).

VIOLATIONS OF RELEASE CONDITIONS (§§ 6&7)

The bill increases the penalty for 1st and 2nd degree violation of release conditions if the violation involves (1) restraining another person or the person's liberty or (2) threatening, harassing, assaulting, molesting, sexually assaulting, or attacking the other person. Under the bill, a violation that involves this conduct increases the penalty from:

1. a class D felony to a class C felony for the 1st degree crime and
2. a class A misdemeanor to a class D felony for the 2nd degree crime.

1st Degree Violation of Release Conditions

Under existing law, it is a 1st degree violation of release conditions

for a person (1) charged with a felony and (2) released on nonfinancial conditions set by a bail commissioner, court, or police officer in family violence cases, to intentionally violate one or more of the conditions.

2nd Degree Violation of Release Conditions

Under existing law, it is a 2nd degree violation of release conditions for a person (1) charged with a misdemeanor or motor vehicle violation that carries a term of imprisonment and (2) released on nonfinancial conditions set by a bail commissioner, court, or police officer in family violence cases, to intentionally violate one or more of the conditions.

PRESENTENCE INVESTIGATION (§ 8)

Except for murder with special circumstances, existing law, unchanged by the bill, requires a presentence investigation for anyone convicted of a felony for the first time in Connecticut. Probation officers prepare the report, which includes information on the circumstances of the offense; the victim's attitude; and the defendant's criminal record, social history, and present condition.

The bill (1) requires a presentence investigation for anyone convicted of a family violence felony for which a prison sentence may be imposed and (2) prohibits such a defendant from waiving it.

A “family violence crime” is a crime that, in addition to its other elements, contains an element of family violence (i.e., an incident between family or household members that either causes physical injury or creates fear that physical injury is about to occur, but does not include verbal abuse or arguments).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 38 Nay 0 (04/04/2017)